

1 PUBLIC PROTECTION CABINET

2 KENTUCKY HORSE RACING COMMISSION

3 (Amendment)

4 811 KAR 2:190. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian
5 Development Fund.

6 RELATES TO: KRS 138.510, 230.215, 230.225, 230.443, 230.445

7 STATUTORY AUTHORITY: KRS 230.215, 230.260, 230.445

8 NECESSITY, FUNCTION AND CONFORMITY: KRS 230.215 and 230.260 authorize the
9 commission to promulgate administrative regulations prescribing the conditions under which
10 horse racing shall be conducted in Kentucky. KRS 230.445 establishes the Kentucky Quarter
11 Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to
12 promulgate administrative regulations to carry out the purpose of the statute and to administer
13 the development fund in a manner to promote and aid in the development of the horse
14 industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of
15 horses bred in Kentucky. This administrative regulation establishes eligibility standards,
16 administrative practices to enforce the standards, and the administration of purses and
17 payments in these races.

18 Section 1. Definitions. (1) "Broodmare" means a mare that conceives and carries her
19 genetic foal to term.

(2) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.

(3) "Fund" means the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund established by KRS 230.445.

(4) "Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 811 KAR 2:010, Section 1(37).

(5) "Inter-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted outside of Kentucky.

(6) "Intra-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted at another Kentucky association.

(7) "Kentucky bred" means a horse that meets the requirements of this administrative regulation and is:

(a) A Quarter Horse registered with the American Quarter Horse Association, or its successor;

(b) An Appaloosa registered with the Appaloosa Horse Club, or its successor;

(c) An Arabian registered with the Arabian Horse Association Registry, or its successor; or

(d) A Paint Horse registered with the American Paint Horse Association, or its successor.

(8) "Live racing handle" means the monies wagered by individuals present on association grounds on Quarter Horse, Paint Horse, Appaloosa, or Arabian races physically conducted on that association's grounds.

(9) "Mare" means a broodmare, donor mare, or recipient mare.

1 (10) "Nonlive racing handle" means the monies wagered at an association located in
2 Kentucky on Quarter Horse, Paint Horse, Appaloosa, or Arabian races not physically conducted
3 on that association's grounds.

4 (11) "Recipient mare" means a mare of any breed who:

5 (a) Is implanted with an embryo from a donor mare;

6 (b) Carries the non-genetic foal to term; and

7 (c) Is implanted with an electronic horse identification microchip that accurately identifies
8 the horse and is compliant with international standards ISO 11784.

9 Section 2. Advisory Committee. The fund advisory committee shall consist of five (5)
10 members, all of whom shall be Kentucky residents, to be appointed by the chairman of the
11 commission by July 1 of each year. The committee shall consist of the following:

12 (1) One (1) member of the commission;

13 (2) One (1) officer or director of a licensed racing association in Kentucky conducting
14 Quarter Horse, Paint Horse, Appaloosa, or Arabian racing;

15 (3) One (1) owner of a horse nominated to the fund;

16 (4) One (1) owner of a mare registered with the fund; and

17 (5) One (1) member of the Kentucky Quarter Horse Racing Association recommended by
18 that organization's board of directors.

19 Section 3. Mare Eligibility. (1) In order for a foal to be eligible to earn money from the
20 fund, the broodmare or both the donor and recipient mares shall be registered with the fund
21 on or before February 15 of the year of conception. Late registration may be made on or before
22 June 15 of the year of conception as provided by subsection (3) of this section.

1 (2) In order to be eligible to be registered with the fund, a mare, whether a broodmare,
2 donor mare, or recipient mare, shall reside in Kentucky continuously from conception or
3 embryo transfer implantation until foaling unless one (1) of the exceptions established in this
4 subsection is met.

5 (a) Medical procedure.

6 1. A medical procedure is required to be performed to protect the health of the mare or
7 the unborn foal that involves an extraordinary medical situation and the owner of the mare
8 desires to have an expert located outside of Kentucky conduct the procedure;

9 2. The owner of the mare files with the commission a Kentucky Quarter Horse, Paint
10 Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of
11 Kentucky no later than fourteen (14) days after the mare leaves Kentucky and provides
12 information related to the procedure as requested by the commission;

13 3. The executive director of the commission approves the departure of the mare from
14 Kentucky;

15 4. The mare remains under the care of a veterinarian during the entire period of time she
16 is not residing in Kentucky, other than the time during which she is traveling to and from
17 Kentucky;

18 5. The mare returns to Kentucky following the medical procedure for which her departure
19 was authorized; and

20 6. The mare is in Kentucky for foaling and documentation establishing that fact to the
21 satisfaction of the commission is provided;

22 (b) Racing.

1 1. The owner of the mare desires to race the mare in a sanctioned pari-mutuel race held
2 outside of Kentucky;

3 2. The owner of the mare files with the commission a Kentucky Quarter Horse, Paint
4 Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of
5 Kentucky at least fourteen (14) days before the mare leaves Kentucky and provides information
6 relating to the race outside of Kentucky as requested by the commission;

7 3. The executive director of the commission approves the departure of the mare from
8 Kentucky;

9 4. The mare returns to Kentucky within ten (10) days after the running of the approved
10 race; and

11 5. The mare is in Kentucky for foaling and documentation establishing that fact to the
12 satisfaction of the commission is provided; or

13 (c) Auction.

14 1. The owner of the mare desires to enter her for sale at a catalogued auction for her
15 breed held outside of Kentucky;

16 2. The owner of the mare files with the commission a Kentucky Quarter Horse, Paint
17 Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of
18 Kentucky at least fourteen (14) days before the mare leaves Kentucky and provides information
19 relating to the auction as requested by the commission;

20 3. The executive director of the commission approves the departure of the mare from
21 Kentucky;

22 4. The mare returns to Kentucky no later than thirty (30) days after the auction; and

1 5. The mare is in Kentucky for foaling and documentation establishing that fact to the
2 satisfaction of the commission is provided.

3 (3) The owner of a mare approved to leave the state under subsection (2) of this section
4 shall provide the commission with written notification of the mare's return within forty-eight
5 (48) hours of her return.

6 (4) A mare shall be registered with the fund by:

7 (a) Completing and filing with the commission a Kentucky Quarter Horse, Paint Horse,
8 Appaloosa, and Arabian Development Fund Mare Registration Form;

9 (b) Providing the commission with a photocopy of the mare's official breed registration
10 papers from the American Quarter Horse Association, American Paint Horse Association,
11 Appaloosa Horse Club, the Arabian Horse Association Registry, or The Jockey Club or their
12 respective successors, or documentation regarding a recipient mare's electronic horse
13 identification microchip; and

14 (c) Paying the registration fee as follows:

15 1. A twenty-five (25) dollar fee for registrations postmarked no later than February 15 of
16 the year of conception; or

17 2. A \$200 late fee for registrations postmarked no later than June 15 of the year of
18 conception.

19 (5) Registration postmarked after June 15 of the year of conception shall not be accepted.

20 Section 4. Nomination. (1) Except as set forth in subsection (5) of this section, in order for
21 a horse to be eligible to earn money from the fund, it shall be a Kentucky bred as defined in this

administrative regulation and it shall be nominated to the fund on or before December 31 of its yearling year by:

(a) Completing and filing with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form;

(b) Providing the commission with a photocopy of the horse's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors; and

(c) Paying the nomination fee as follows:

1. A twenty-five (25) dollar fee for nominations postmarked no later than December 31 of the weanling year; or

2. A \$100[~~late~~] fee for nominations postmarked no later than December 31[~~15~~] of the yearling year.

(2) Except as provided in subsection (5) of this section, nominations postmarked after December 31[~~15~~] of the yearling year shall not be accepted.

(3) In order for a foal that is the product of an embryo transfer to be eligible to earn monies from the fund, the donor mare and the recipient mare shall be registered as provided in Section 3 of this administrative regulation and shall meet the other requirements of this administrative regulation.

(4) If a registered donor mare produces more than one (1) foal in one (1) breeding season, two (2) genetic foals may be nominated to the fund as determined by the owner of the donor mare.

(5) A horse born in 2016 or before shall be eligible to be nominated to the fund and to participate in races offering monies from the fund. A horse shall be nominated by:

(a) Completing and filing with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form;

(b) Paying a nomination fee of \$300; and

(c) Including the following with the nomination form:

1. A photocopy of the official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An official breed registry shipped semen report or a stallion breeders certificate demonstrating that the horse was conceived in Kentucky; and

4. A signed affidavit from the owner of the mare at the time of her pregnancy stating that the mare resided in Kentucky during the entirety of her pregnancy.

(6) Nothing in this section shall prevent a registered mare from being eligible to race for monies from the fund.

Section 5. Monies Earned. (1) One (1) live association.

(a) Live racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of the total live racing handle pursuant to KRS 138.510(1).

1 (b) Nonlive racing handle. An association conducting live racing shall earn monies to be
2 deposited in the fund account for that association in the amount of two (2) percent of the total
3 non-live racing handle pursuant to KRS 138.510(2).

4 (2) More than one (1) live association. Unless there is a commission approved agreement
5 among the associations conducting live racing to the contrary, if two (2) or more associations
6 are conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races on the same day,
7 the monies earned from the handle for that day shall be divided as established in this
8 subsection.

9 (a) Live racing handle. An association conducting Quarter Horse, Paint Horse, Appaloosa,
10 or Arabian races shall earn monies to be deposited in the fund account for that association in
11 the amount of one (1) percent of that association's live racing handle pursuant to KRS
12 138.510(1).

13 (b) The intra-state wagering monies shall be allocated to that association on which the
14 wagering is placed for purposes of calculating that association's fund earnings.

15 (c) Inter-state wagering monies originating from an association conducting live Quarter
16 Horse, Paint Horse, Appaloosa, or Arabian races shall be allocated to that association for
17 purposes of calculating that association's fund earnings.

18 (d) Inter-state wagering monies from all other Kentucky associations shall be divided
19 evenly among the associations conducting live races.

20 (3) Historical horse race handle. An association offering wagering on historical horse races
21 shall earn monies to be deposited in the fund account for that association as provided in KRS
22 138.510(1).

1 Section 6. Distribution of Funds. (1) Each association shall submit a request to the advisory
2 committee, including the proposed races eligible to receive monies from the fund and the
3 proposed purse structure for those races, at least forty-five (45) days prior to the opening day
4 of the live racing meet.

5 (2) Unless there is a commission approved proposal to the contrary, the proposed purse
6 structure shall not exceed the total dollars generated by that breed to the association's fund
7 account.

8 (3) The advisory committee shall review the proposed eligible races and purse structure
9 and make a recommendation whether to approve the proposed races and purse structure to
10 the commission based upon the best interests of Kentucky racing.

11 (4) Two (2) or more associations conducting Quarter Horse, Paint Horse, Appaloosa, or
12 Arabian racing may request permission from the advisory committee to combine their
13 respective fund monies to supplement purses at one (1) of the associations. The advisory
14 committee shall recommend to the commission whether to approve the request.

15 Section 7. Reconciliation. (1) Each association shall file with the commission a copy of the
16 pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check
17 submitted for each report. These reports shall be filed weekly.

18 (2) Each association shall report to the commission the actual purse distribution no later
19 than fifteen (15) calendar days after the last day of a live race meeting.

20 (3) The commission shall on a monthly basis reconcile the weekly reports submitted by
21 the association with the Department of Revenue's reports and deposits.

(4) If, at the close of a live race meet, an association has a balance of monies earned for that meet, which has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute the remaining balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use fund monies previously earned to supplement purses at future live racing meets held by that association; or

(b) Use fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.

(5) If, at the close of a live race meet, an association offering wagering on historical horse races has a balance of fund monies earned from historical horse race wagers, which has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute a portion of the balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use the historical horse race fund monies previously earned to supplement purses at future live racing meets held by that association;

(b) Use historical horse race fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations; or

(c) Use historical horse race fund monies previously earned to supplement purses at another licensed Kentucky racetrack.

(6) Reasonable and customary administrative charges for time spent reconciling the account may be charged to each association by the commission based on the percentage of funds generated by each association for the previous calendar year.

(7) Each association shall sign an agreement stating that it accepts and agrees with the reconciliation prior to reimbursement of any funds.

Section 8. Consent to Investigate. The filing of a registration form shall authorize the advisory committee and commission to investigate and verify information provided by the applicant, including conducting site visits to verify the residency of a registered mare.

Section 9. Penalties. (1) An applicant who provides incorrect, false, or misleading information concerning the registration of a mare or the nomination of a foal or horse, or who violates this administrative regulation in any other manner shall be subject to the following penalties:

(a) A fine of not more than \$5,000;

(b) Denial or revocation of the registration of the mare or the nomination of the foal or horse with the fund; or

(c) A bar from registering mares to the fund or from being eligible to receive monies from the fund for a period of one (1) to five (5) years, based on the seriousness of the violation.

(2) In addition to the penalties provided in subsection (1) of this section, a second or subsequent violation of this administrative regulation may result in a lifetime bar of the applicant from being eligible to register mares with the fund or to receive monies from the fund.

(3) In addition to the penalties provided in subsection (1) of this section, the commission may deny or revoke the registration of a mare or nomination of a foal or horse or the purse money earned by the foal or horse if the applicant is charged or convicted of a crime, offense, or other criminal or civil violation involving cruelty, mistreatment, abuse, or neglect of any horse. A person charged, but not convicted of any crime, offense, or other criminal or civil violation as provided in this subsection may petition the commission for reinstatement. The commission shall reinstate the registration or purse upon submission of proof satisfactory to the commission that the charges were dismissed and the facts forming the basis of the charges were false.

(4) The advisory committee may recommend, and the commission may impose, one (1) or more of the penalties provided in subsection (1) of this section.

(5) Any penalty imposed under this section shall be subject to appeal and adjudication in accordance with 811 KAR 2:105 and KRS Chapter 13B.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

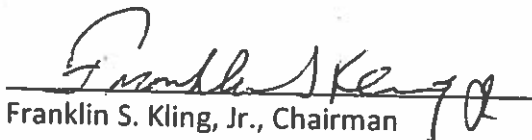
(a) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 190-1, 12/15;

(b) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 190-2, 12/15; and

(c) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 190-3, 12/15.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
2 law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B,
3 Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also
4 available on the commission's Web site at <http://khrc.ky.gov>.

READ AND APPROVED:


Franklin S. Kling, Jr., Chairman
Kentucky Horse Racing Commission

5-17-16
Date


David A. Dickerson, Secretary
Public Protection Cabinet

5-17-16
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 26, 2016 at 10:00 a.m., at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 405011. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by July 19, 2016, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on August 1, 2016. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: John L. Forgy
General Counsel
Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511
Phone: (859) 246-2040
Facsimile: (859) 246-2039

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John L. Forgy, General Counsel, Kentucky Horse Racing Commission
Phone (859) 246-2040

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation provides the rules governing eligibility for participation in the Kentucky Quarter Horse, Paint Horse, Appaloosa and Arabian Development Fund (the "Fund") and the administration of the Fund.

(b) The necessity of this administrative regulation: KRS 230.445 requires the Kentucky Horse Racing Commission ("KHRC") to promulgate administrative regulations regarding eligibility for participation in the Fund and the administration of the Fund. This regulation fulfills that statutory mandate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.445(2) establishes the Fund and requires the KHRC to "use the development fund to promote races and to provide purses for races for horses bred and foaled in the Commonwealth" and to "provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed tracks within Kentucky conducting quarter horse, paint horse, Appaloosa, or Arabian horse racing." This regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of payments from the Fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specific rules for eligibility to earn

monies from the Fund, conditions for races with purses supplemented by monies from the Fund, and the distribution of monies from the Fund.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendments will change this existing administrative regulation: The primary substantive amendments are as follows:

- Clarify the yearling deadline as December 31 of the yearling year.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary due to the statutory addition of paint horses as an eligible breed under the Fund. The amendments are also necessary to make the distribution provisions consistent with the pari-mutuel wagering tax statute, KRS 138.510, and to update the regulation as requested by the Advisory Committee.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments relate to the eligibility requirements and administration of the Fund.

(d) How the amendment will assist in the effective administration of the statutes: The amendments relate to the eligibility requirements and administration of the Fund.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect those persons who breed and race Quarter Horses, Paint Horses, Appaloosas and Arabians in conformity with the requirements of the regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Persons who breed and race Quarter Horses, Paint Horses, Appaloosas, and Arabians in Kentucky will have to comply with the requirements and pay the fees set forth in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendments do not establish any new fees.

- Mare registration: \$25 for registrations postmarked no later than February 15 of the year of conception, or \$200 for late registrations postmarked no later than June 15 of the year of conception.
- Nominations: \$25 for nominations postmarked no later than December 31 of the weanling year, or \$100 for late nominations postmarked no later than December 31 of the yearling year.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Persons who breed and race Quarter Horses, Paint Horses, Appaloosas, and Arabians in Kentucky will have an opportunity to earn money from the Fund in accordance with the statute and regulation.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The costs will be dependent on the number of participants in the program. If the number of participants increases, there will be a corresponding increase in the cost of administration.

(b) On a continuing basis: See answer to (5)(a).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation will be funded out of the Fund pursuant to KRS 230.445 (4)(b) .

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is anticipated.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendments do not establish any fees or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied. All aspects of this regulation will be applied equally to the affected parties.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 811 KAR 2:190

Contact Person: John L. Forgy
(859) 246-2040

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.445.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There are potential indirect benefits to state and local governments through employee taxes and sales and use taxes. Each horse participating in the program for breeding purposes will be located in the state and will require feed, hay, veterinarian services, etc., as well as employee management.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? See answer to 4 (a).

(c) How much will it cost to administer this program for the first year? Currently, there is very little Quarter Horse and Arabian racing in the Commonwealth and no Paint Horse or

Appaloosa racing. However, if the number of participants increases, there will be a corresponding increase in the costs associated with administering the Fund.

(d) How much will it cost to administer this program for subsequent years? See answer to 4 (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: